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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,807	12/07/2001	Kazumasa Ohnishi	740709-489	7705

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EXAMINER

DOUGHERTY, THOMAS M

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/004,807

Applicant(s)

OHNISHI, KAZUMASA

Examiner

Thomas M. Dougherty

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 12, 13 and 16-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lendl (US 4,174,182). Lendl shows (fig. 2) a linear movement control unit comprising a linearly movable rod (22) which is connected with a rod actuating device (23) at one end or a vicinity thereof, said rod actuating device (23) capable of linearly moving the rod forward and backward, characterized in that: the rod (22) is connected with the rod actuating device (23) via [a] cushion mechanism (30); and by the side of the rod (22) is placed a rod movement control device (31) comprising an elastic member (33), a ultrasonic transducer (32), and a ultrasonic emitting surface (surface of 33), the elastic member (33) being constituted to push the ultrasonic emitting surface (surface of 33) to a side surface (lower side) of the rod (22) when the ultrasonic transducer (32) is inactive (fig. 5), and the ultrasonic transducer (32) functioning to draw the ultrasonic emitting surface (surface of 33) away from the rod (22) when it is active (fig. 4). Note that recitation of "ultrasonic" carries no patentable weight because this is a description of frequencies that are capable of being supplied to the transducer, as such, ultrasonic frequencies may easily be applied also to the Lendl device. Furthermore, it does not appear that the applicants' device is supplied with an ultrasonic frequency. At any rate, this is a method of using the device and is not further limiting to the structure.

The ultrasonic emitting surface (surface of 33) is composed of a friction pad. Obviously if the surface is intended to keep the rod (22) in place, friction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lendl (US 4,174,182) in view of Ohnishi (US 5,245,243). Given the invention of Lendl as noted above, he does not disclose his material for his friction pad (surface of 33).

Ohnishi et al. disclose (see ABSTRACT) use of a friction member comprised of "a carbon fiber reinforced reinforced plastic" in his ultrasonic device. Ohnishi et al. do not show a linearly movable rod driven by an actuator and attached to the actuator by a cushioning means, nor do they show an ultrasonic component which by its activation or de-activation is able to stabilize a rod in position.

It would have been obvious to one having ordinary skill in the art to one of ordinary skill in the art to use the "a carbon fiber reinforced plastic" for the material of the friction member (33) in the device of at the time the Lendl invention was made, as is taught by Ohnishi et al. in order to enhance the durability of the device and "to extend the life" as these advantages are taught by Ohnishi et al. in their SUMMARY OF THE INVENTION. Additionally, it would have been obvious to use such a material in the device of Lendl since it has been held to be within the general skill of a worker in the art

to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

***Allowable Subject Matter***

Claims 1-10 are allowed.

Claims 12, 13 and 16-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to show a table connected to a rod, wherein the table is moved by the rod, which is moved by an actuating device and wherein the rod is further stabilized by a transducer which is activated or deactivated for this purpose. While Lendl shows every feature except the table, there is no obvious reason to include a table in his device since his device is a printer mechanism and has no cause for a table.

Additionally, the prior art fails to show specific features of the claimed device such as a pair of rod movement control devices, an elastic member which is a spring, a ball screw and a stepping motor configuration, a voice coil motor or a protrusion in a center of the ultrasonic emitting surface. None of these features lends itself to combination with Lendl's printing mechanism.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art cited reads on at least some aspects of the claimed invention.

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Direct inquiry concerning this action to Examiner Dougherty at (703) 308-1628.

*tmd*  
tmd

September 26, 2003

*Thomas M. Dougherty*

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